

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

[1] ALIREZA DABIRI, and)	
[2] RAY DABIRI,)	
)	
	Plaintiffs,)
)	
v.)	Case No. CIV-18-526-HE
)	
[1] FOREMOST INSURANCE)	Removed from the
COMPANY GRAND RAPIDS,)	District Court of
MICHIGAN,)	Oklahoma County, Case
)	No. CJ-17-5562
	Defendant.)

NOTICE OF REMOVAL

Foremost Insurance Company Grand Rapids, Michigan ("Foremost"), hereby removes this action from the District Court of Oklahoma County, Oklahoma, to the United States District Court for the Western District of Oklahoma pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

In support of this Notice of Removal, Foremost states as follows:

I. BACKGROUND AND FOUNDATION FOR REMOVAL

1. On April 12, 2018, Plaintiffs filed their First Amended Petition in the District Court of Oklahoma County, Oklahoma, captioned: *Alireza Dabiri and Ray Dabiri v. Foremost Insurance Company Grand Rapids, Michigan, Case No. CJ-2017-5562*.

2. The Petition and Summons were served upon Foremost Insurance Company Grand Rapids, Michigan (by serving the Oklahoma Insurance

Commissioner) on May 7, 2018. No other pleadings, process, or orders have been served on the Defendant. Pursuant to LCvR 81.2, copies of the First Amended Petition, Alias Summons, and the Oklahoma County Docket Sheet are attached hereto as Exhibits 1, 2, and 3.

3. Pursuant to LCvR 3.1, this Notice of Removal is accompanied by a Civil Cover Sheet, Form JS-44, attached hereto as Exhibit 4.

4. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332. Further, this matter is one that may be removed to this Court pursuant to 28 U.S.C. § 1441 because it is a civil action that is among citizens of different states and in which the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

5. Venue is proper in this Court because this action is pending in the District Court of Oklahoma County, Oklahoma. See 28 U.S.C. § 1441(a)

II. COMPLETE DIVERSITY OF CITIZENSHIP EXISTS

6. There is a complete diversity of citizenship among the parties:

- (a) Plaintiffs: Alireza Dabiri is a resident of Oklahoma County, Oklahoma. Ray Dabiri is a resident of Philadelphia, Pennsylvania (See Petition, ¶ 1, Ex. 1).
- (b) Defendant: Defendant, Foremost Insurance Company Grand Rapids, Michigan is a corporation organized under the laws of the state of Michigan, with its principal place of business in Caledonia, Michigan. For purposes of removal under 28 U.S.C. § 1441, a corporation shall be deemed to be a citizen of any state in which it has been incorporated, and the state in which it maintains its principal place of business. 28 U.S.C. § 1332(c). Therefore, for removal purposes, Foremost is a citizen of the state of Michigan. Foremost is not a citizen of the States of Oklahoma or Pennsylvania.

III. THE AMOUNT IN CONTROVERSY EXCEEDS THE AMOUNT REQUIRED FOR DIVERSITY JURISDICTION

7. Plaintiffs' First Amended Petition alleges that on or about May 26, 2015 they suffered damages to [Alireza Dabiri's] home due to extreme rain. (See Petition, ¶5, Ex. 1).

8. Plaintiffs further allege that the home was insured by a policy of insurance in effect at the time of this incident; that they submitted a claim for the damages to Foremost; that Foremost denied the claim; that Foremost has breached its contract with plaintiffs in denying the claim; and further, that Foremost breached its duty of good faith and fair dealing in its dealings with the Plaintiffs. (See Petition, ¶¶ 4, 6, 7, 9 and 10, Ex. 1).

9. Plaintiffs assert damages for breach of contract in an amount in excess of \$65,000, extra-contractual damages in an amount in excess of \$1,000,000, as well as punitive damages. (See Petition, *ad damnum* clauses, Ex. 1). Based upon plaintiffs' allegations the amount in controversy exceeds \$75,000. See 28 U.S.C. § 1332.

10. Foremost denies the allegations in Plaintiffs' First Amended Petition. By filing this Notice of Removal, Foremost does not waive any defenses that may be available to it. Taking the allegations on their face as true, however, as this Court must do for the purpose of determining the propriety of removal, Plaintiffs' claims, as evidenced by the First Amended Petition, demonstrate an amount in controversy in excess of \$75,000.

IV. CONCLUSION.

11. This Notice of Removal is timely filed, pursuant to 28 U.S.C. § 1446(b).

12. Foremost certifies it will promptly give written notice of the filing of this Notice of Removal to all known counsel of record, and will likewise file a copy of this Notice of Removal with the District Court of Oklahoma County, Oklahoma.

12. Given complete diversity of the parties and an amount in controversy in excess of \$75,000, this Court has jurisdiction over this cause of action and the claims asserted pursuant to 28 U.S.C. § 1332; and this action is properly removable pursuant to 28 U.S.C. § 1441.

WHEREFORE Foremost hereby removes this matter from the District Court of Oklahoma County, Oklahoma to the United States District Court for the Western District of Oklahoma.

Respectfully submitted,

s/ 
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CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of May, 2018, I filed the above and foregoing document with the Clerk of Court and served the attached document by Email on the following:

G. Allan Grubb – allan@grubblawoffice.com
Larry D. Biddulph – larryblaw1@gmail.com
Attorneys for Plaintiff

s/ *F. Thomas Cordell*
F. Thomas Cordell

I further certify that a copy of the above and foregoing document was attached to a Notice of Filing Notice of Removal and was mailed for filing, via U.S. Mail, on the 29th day of May, 2018 to:

Rick Warren, Court Clerk
OKLAHOMA COUNTY
320 Robert S. Kerr Avenue
409 County Office Bldg.
Oklahoma City, OK 73102

s/ *F. Thomas Cordell*
F. Thomas Cordell